

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA

SHANE RESSLER,

Plaintiff,

v.

Civil Action No. 1:12CV130

CARGOTECH SOLUTIONS, LLC, doing  
business as Princeton Delivery Systems, Inc.,  
KALMAR INDUSTRIES USA, LLC, doing  
business as Princeton Delivery Systems, Inc.,  
PRINCETON DELIVERY SYSTEMS, INC., and  
GARDEN STATE ENGINE & EQUIPMENT COMPANY, INC.,

Defendants.

**ORDER/OPINION**

This matter is before the undersigned United States Magistrate Judge pursuant to Defendant Garden State Engine & Equipment Company, Inc.'s ("Garden State") Motion to Compel Defendant Princeton Delivery Systems, Inc.'s ("Princeton") Discovery Responses, filed February 26, 2013 [DE 33].

A review of the Docket indicates Garden State served its First Set of Combined Discovery Requests to Defendant, Princeton, on December 20, 2013 [DE 28]. Responses were due at the very latest January 23, 2013. On January 18, 2013, Princeton filed responses to Garden States's Requests for Admission [DE 30]. According to Garden State and upon review of the Docket, Princeton failed to timely serve its responses to Interrogatories and Requests for Production. In fact, the docket does not indicate such responses have been served to date.

Garden State filed its Motion to Compel on February 26, 2013, after requesting Princeton serve the responses by the 25<sup>th</sup> of February. The Motion was referred to the undersigned United States Magistrate Judge by United States District Judge Irene M. Keeley on February 26, 2013 [DE 33]. According to Garden State, Princeton has not complied, nor has Princeton acknowledged

Garden State's correspondence or explained why the discovery responses were not forthcoming.

Any response to Garden State's Motion to Compel was due on or before March 15, 2013.

To date, no response to the motion has been submitted.

Based upon all which, Garden State's Motion to Compel Defendant Princeton Delivery Systems, Inc.'s Discovery Responses [DE 33] is **GRANTED**. Princeton Delivery has waived any objections to the requests by its failure to timely respond to the discovery requests. Princeton Delivery Systems, Inc. is therefore directed to respond in full to Garden State's First Set of Combined Discovery Requests within thirty (30) days of entry of this Order.

Pursuant to Rule 37(d)(3), Garden State is directed to file with the Court and serve on Princeton Delivery, on or before March 25th, 2013, an accounting of reasonable expenses, including attorney fees, caused by the failure of Princeton Delivery to timely file its responses to the discovery requests. Princeton Delivery shall have until April 15, 2013, to respond to the accounting of reasonable fees and expenses. Only if both an accounting of fees and expenses and an objection to same are filed shall a hearing be scheduled to provide an opportunity to be heard on the issue of fees and expenses.

It is so **ORDERED**.

ENTERED: March 18, 2013.

*John S. Kaull*

JOHN S. KAULL  
UNITED STATES MAGISTRATE JUDGE